

FILED IN CHAMBERS

U.S.D.C. - Rome

SEP 18 2013

JAMES N. HATTEN, Clerk

[Signature] Deputy Clerk

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MARK D. WEST, WILLIAM J. STOUT,)
JACOB S. PILGRIM, PILGRIM HOLDINGS,)
LLC, PROSPER HOLDING, LP, and PSALM)
ONE DEVELOPMENTS, LP,)
)
Plaintiffs,)
)
v.) Civil Action No.
) 1:13-cv-01768-RLV
SCANTECH HOLDINGS, LLC, SCANTECH)
SECURITY, LLC f/k/a IDENTIFICATION)
BEAM SYSTEMS, LLC, SCANTECH)
IDENTIFICATION BEAM SYSTEMS, LLC,)
SIBS INVESTOR, LLC, JGD MANAGEMENT)
CORP. d/b/a YORK CAPITAL)
MANAGEMENT, BRANT EDWIN FROST, IV,)
FIRST LIBERTY BUILDING & LOAN, LLC,)
FIRST LIBERTY CAPITAL PARTNERS, LLC,)
FIRST LIBERTY CAPITAL, LLC, DANIEL B.)
COWART, DOLAN P. FALCONER, JR.,)
HENRY D. SUTHERLIN, JOHN REDMOND,)
and JAMES A. BLACKWELL,)
)
Defendants.)
)

CONSENT ORDER REFERRING CASE
TO MAGISTRATE JUDGE PURSUANT TO L.R. 16.7

WHEREAS pursuant to Local Rule 16.7, the parties jointly request that this matter be referred to a Magistrate Judge of this Court for the purposes of conducting a settlement conference;

WHEREAS the suspension and tolling of deadlines while the settlement conference is pending will promote the efficient conduct of this litigation; and,

WHEREAS the time for Defendants to answer or otherwise respond to the complaint filed in the above-captioned action has not yet passed; and,

WHEREAS the parties have agreed to the terms of this Consent Order as evidenced by the signatures of their counsel below,

IT IS HEREBY ORDERED that this matter is REFERRED to a Magistrate Judge of this Court for purposes of conducting a settlement conference. As set forth in Local Rule 16.7(I)(1), all parties to the case and their insurance carriers are ORDERED to attend the settlement conference unless excused by the Magistrate Judge.

Until the settlement conference has taken place, all filing deadlines in the action are hereby SUSPENDED. If the settlement conference does not result in the resolution of all claims in this action and further litigation proves necessary, then the following schedule shall apply:

Defendants shall answer, move, or otherwise respond to Plaintiffs' Complaint no later than 20 days after Defendants' receive notice that the Magistrate Judge reports to this Court that further mediation efforts would not be useful. If one or more Defendants move to dismiss, then Plaintiffs shall have 40

days to serve their opposition to such motion(s), and Defendants shall have 20 days thereafter to serve their replies, if any.

Participation in a settlement conference does not and shall not constitute an admission or implication that any claims between the parties in connection with the issues in this litigation are valid or not valid or that any conduct of any of the parties was or was not wrongful, unlawful, negligent or violative of any federal or state statute or regulation or any contract or common law. By participating in a settlement conference, none of the parties shall be deemed to have: (a) made any admissions against its respective interest; (b) admitted any alleged liability, wrongdoing or violation of any rule, regulation or statute; or (c) waived any claims or defenses, however denominated.

In order to promote communication among the parties, counsel and the mediator and to facilitate settlement of the dispute, the entire mediation process shall be confidential. All statements made during the course of the mediation are privileged settlement discussions, and are made without prejudice to any party's legal position, and are inadmissible for any purpose in any legal proceeding. These offers, promises, conduct and statements (a) will not be disclosed to third parties except persons associated with the participants in the process, and (b) are privileged and inadmissible for any purposes, including impeachment, under Rule

408 of the Federal Rules of Evidence and any applicable federal or state statute, rule or common law provisions.

SO ORDERED this 18th day of September, 2013.

Robert L. Vining, Jr.
Honorable Robert L Vining, Jr.
Judge, United States District Court
Northern District of Georgia

AGREED this 17th day of September, 2013.

By: /s/ David Bain

David Andrew Bain
Ga. Bar No. 032449
dbain@bain-law.com
Law Offices of David A. Bain, LLC
1050 Promenade II
1230 Peachtree Street, NE
Atlanta, GA 30309
Phone: (404) 724-9990
Fax: (404) 724-9986

Gary D. Sarles
gsarles@sarleslaw.com
Sarles & Ouimet
Suite 370
900 Jackson Street
Dallas, TX 75202
Phone: (214) 573-6300

Counsel for Plaintiffs

By: /s/ S. Derek Bauer

S. Derek Bauer
Ga. Bar 042537
dbauer@mckennalong.com
Anthony W. Morris
Ga. Bar 523495
amorris@mckennalong.com
Michelle F. Zaltsberg
Ga. Bar 402089
mzaltsberg@mckennalong.com
McKenna Long & Aldridge LLP
303 Peachtree Street, Suite 5300
Atlanta, Georgia 30308
Phone: (404) 527-4195
Fax: (404) 527-4198

Counsel for Defendants Scantech Holdings, LLC, Scantech Security, LLC, Daniel B. Cowart, Dolan P. Falconer, Jr., Henry D. Sutherlin, John Redmond, and James A. Blackwell

By: /s/ Michael Coleman

Michael Coleman
Ga. Bar 177635
Michael.Coleman@ThompsonHine.com
J.A. Schneider
Ga. Bar No. 141437
JA.Schneider@ThompsonHine.com
Thompson Hine, LLP
Two Alliance Center
3560 Lenox Road, Suite 1600
Atlanta, Georgia 30326-4266
Phone: (404) 541-2900
Fax: (404) 541-2905

*Counsel for Defendants Scantech
Identification Beam Systems, LLC*

By: /s/ Veronica Rendon

Veronica Rendon
Veronica.Rendon@aporter.com
Brett Finkelstein
Bret.Finkelstein@aporter.com
Arnold & Porter, LLP
399 Park Avenue
New York, NY 10022-4690
Phone: (212) 715-1780

*Counsel for Defendants SIBS Investor,
LLC, JGD Management Corp. d/b/a York
Capital Management*

By: /s/ Stephen E. Hudson

Stephen E. Hudson
Ga. Bar 374692
Shudson@kilpatricktownsend.com
Kilpatrick Townsend & Stockton LLP
Suite 2800
1100 Peachtree Street NE
Atlanta, Georgia 30309-4528
Phone: (404) 815-6356

*Counsel for Defendants Brant Edwin
Frost IV, First Liberty Building & Loan,
LLC, First Liberty Capital Partners, LLC,
First Liberty Capital, LLC*